

**SEMINOLE COUNTY GOVERNMENT  
AGENDA MEMORANDUM****SUBJECT:** Bright Horizons Daycare Small Scale Land Use Amendment and Rezone**DEPARTMENT:** Planning and Development      **DIVISION:** Planning**AUTHORIZED BY:** Dori DeBord**CONTACT:** Austin Watkins**EXT:** 7440**MOTION/RECOMMENDATION:**

1. APPROVE an ordinance for a Small Scale Land Use Amendment from PUB (Public) and SE (Suburban Estates) to OFF (Office) and rezone from A-1 (Agriculture) to PUD (Planned Unit Development), for 1.61 ± acres located at the southeast corner of the intersection of Banana Lake Road and CR 46A, and approve the attached Preliminary Master Plan and Development Order, and authorize the Chairman to execute the aforementioned documents, based on staff findings (Bright Horizons Daycare / Robert Rossi, applicant); or
2. DENY the requested Small Scale Land Use Amendment from PUB (Public) and SE (Suburban Estates) to OFF (Office) and rezone from A-1 (Agriculture) to PUD (Planned Unit Development), and authorize the Chairman to execute the Denial Development Order, for 1.61 ± acres located at the southeast corner of the intersection of Banana Lake Road and CR 46A (Bright Horizons Daycare / Robert Rossi, applicant); or
3. CONTINUE the public hearing until a time and date certain.

District 5 Brenda Carey

Austin Watkins

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**BACKGROUND:**

Bright Horizons Family Solutions is requesting a Small Scale Land Use Amendment from PUB (Public) and SE (Suburban Estates) to OFF (Office) and a rezone from A-1 (Agriculture) to PUD (Planned Unit Development). The applicant is proposing to construct a daycare facility consisting of a maximum allowable building square footage of 15,000 square feet or 0.22 FAR.

The subject property contains the Paola Historical Cemetery, which encompasses vaults and headstones. The cemetery was a part of a Presbyterian Church that burned down in the late 1800s. There is a portion of the cemetery that is fenced, which the applicant proposes to maintain the current boundaries of; however, the applicant may opt to relocate human remains or associated items to another location in accordance with all State Statutes, if permitted by the Florida Department of State, Historical Resources Division.

**PLANNING AND ZONING COMMISSION RECOMMENDATION:**

The Planning and Zoning Commission met on July 11, 2007 and voted 7-0 to recommend APPROVAL of the request for a Small Scale Land Use Amendment from PUB (Public) and SE (Suburban Estates) to OFF (Office) and rezone from A-1 (Agriculture) to PUD (Planned Unit Development), for 1.61 ± acres located at the southeast corner of the intersection of Banana Lake Road and CR 46A and approval of the attached Preliminary Master Plan and Development Order, based on staff findings and with the recommendation that the daycare be

the only permitted use and the results of the ground penetrating radar be submitted to the County.

At this time Staff has not received any additional archaeological survey information from the applicant.

**STAFF RECOMMENDATION:**

Staff recommends the Board APPROVE an ordinance for a Small Scale Land Use Amendment from PUB (Public) and SE (Suburban Estates) to OFF (Office) and a rezone from A-1 (Agriculture) to PUD (Planned Unit Development), for 1.61 ± acres located at the southeast corner of the intersection of Banana Lake Road and CR 46A, and recommends approval of the attached Preliminary Master Plan and Development Order, based on staff findings.

**ATTACHMENTS:**

1. Staff Analysis
2. Location Map
3. Zoning and Future Land Use Map
4. Aerial Map
5. Preliminary Master Plan
6. Approval Development Order
7. Rezone Ordinance
8. SSLUA Ordinance
9. Denial Development Order
10. Applicant's SSLUA Justification Statement
11. Archaeological Information
12. July 11, 2007 P&Z Minutes
13. Citizen's Letter of Concern

**Additionally Reviewed By:**

☒ County Attorney Review ( Kathleen Furey-Tran )

<b>Bright Horizons Daycare SSLUA and Rezone</b> <b>SSLUA from PUB and SE to OFF and Rezone from A-1 to PUD</b>		
<b>APPLICANT</b>	Robert Rossi, Bright Horizons Daycare	
<b>PROPERTY OWNER</b>	Dana and James Froehlich	
<b>REQUEST</b>	Small Scale Land Use Amendment from PUB (Public) and SE (Suburban Estates) to OFF (Office) and a Rezone from A-1 (Agriculture) to PUD (Planned Unit Development)	
<b>PROPERTY SIZE</b>	1.61 ± acres	
<b>HEARING DATE (S)</b>	P&Z: July 11, 2007	BCC: October 9, 2007
<b>PARCEL ID</b>	06-20-30-300-0080-0000	
<b>LOCATION</b>	Southeast corner of the intersection of Banana Lake Road and CR 46A.	
<b>FUTURE LAND USE</b>	PUB (Public) and SE (Suburban Estates)	
<b>ZONING</b>	A-1 (Agriculture)	
<b>FILE NUMBER</b>	Z2007-33	
<b>COMMISSION DISTRICT</b>	#5 – Carey	

### **PROPOSED DEVELOPMENT:**

The applicant is proposing a daycare facility with a maximum building square footage of 15,000 square feet. The Paola Historical Cemetery is located on the subject property and an existing fenced in area is located on the southeast quadrant of the property, which encompasses vaults and headstones. Currently, the applicant is proposing to maintain the fenced in area as a historical site.

### **CONSISTENCY WITH THE VISION 2020 COMPREHENSIVE PLAN:**

### **FLU Element Plan Amendment Review Criteria:**

The Future Land Use Element in the Comprehensive Plan lays out certain criteria that proposed Future Land Use amendments must be evaluated against. Because this is a small area Future Land Use amendment with localized impacts, an individual site compatibility analysis is required utilizing the following criteria:

**A. Whether the character of the surrounding area has changed enough to warrant a different land use designation being assigned to the property.**

### **Staff Evaluation**

The subject property is located in between two large Planned Unit Developments, Heathrow PUD (west) and Colonial Center Heathrow (east). The subject property is an infill parcel. Once developed, the south 46A corridor will be fully built-out from Interstate 4 to the Heathrow PUD. North of the subject property is the Grande Oaks PUD, which consists of 314 townhomes. The Heathrow PUD consists of single-family, patio homes,

multi-family, office and commercial uses, while the Colonial Center Heathrow PUD has office, retail and multi-family as allowable uses.

Staff finds that the character of the area has changed enough to warrant a more intensive use of Office on the subject property.

**B. Whether public facilities and services will be available concurrent with the impacts of development at adopted levels of service.**

**C. Whether the site will be able to comply with flood prone regulations, wetland regulations and all other adopted development regulations.**

**D. Whether the proposal adheres to other special provisions of law (e.g., the Wekiva River Protection Act).**

#### **Staff Evaluation**

The development will have to undergo Concurrency Review prior to Final Engineering approval and must meet all Concurrency standards in order to proceed.

The site will have to comply with all Land Development Regulations regarding development in and around wetland and floodplain areas at the time of Final Engineering. However, there appears to be no wetlands or flood prone areas on the subject property

The subject property is not located within any special or restrictive district.

**E. Whether the proposed use is compatible with surrounding development in terms of community impacts and adopted design standards of the Land Development Code.**

#### **Staff Evaluation**

The subject property is an infill parcel. West of the subject property is the Heathrow PUD, which is a multi-use PUD consisting primarily of single-family residences. East of the subject property is the Colonial Center Heathrow PUD which is a multi-use PUD consisting of office and multi-family in the adjacent tract. However, south of the subject property is an existing single-family home with Suburban Estates FLU.

Staff finds that the proposed Preliminary Master Plan demonstrates a compatible transition between the existing land uses by providing stormwater retention on the southern portion of the property with a 10' landscape buffer consisting of 8 canopy trees every 100' and a 6' masonry wall. Additionally, on the southeast corner of the subject property is an existing cemetery. The boundaries of the fenced in section of the Paola Cemetery will not change and will provide for an additional buffer between residential and non-residential uses.



**F. Whether the proposed use furthers the public interest by providing:**

- 1. Sites for public facilities or facility improvements in excess of requirements likely to arise from development of the site**
- 2. Dedications or contributions in excess of Land Development Code requirements**
- 3. Affordable housing**
- 4. Economic development**
- 5. Reduction in transportation impacts on area-wide roads**
- 6. Mass transit**

**Staff Evaluation**

The subject property is infill and in an urban area with adequate public facilities. Therefore, the applicant is not proposing any additional facility improvements. The applicant is proposing buffering standards that are in excess of the Seminole County Land Development Code requirements. The applicant's proposal does not consider affordable housing, economic development, mass transit, nor reduction in transportation impacts.

**G. Whether the proposed land use designation is consistent with any other applicable Plan policies, the Strategic Regional Policy Plan and the State Comprehensive Plan.**

The following are other applicable Vision 2020 Policies and Exhibits and staff's evaluation:

**Policy FLU 2.5: Transitional Land Uses**

The County shall evaluate Plan amendments to ensure that transitional land uses are provided as a buffer between residential and nonresidential uses, between varying intensities of residential uses and in managing redevelopment of areas no longer appropriate as viable residential areas. *Exhibit FLU: Appropriate Transitional Land Uses* is to be used in determining appropriate transitional uses.

**Staff Evaluation**

*Exhibit FLU: Appropriate Transitional Land Uses* in the Future Land Use Element is used as a guide in evaluating compatibility between proposed and adjacent land uses. The subject property is an infill parcel, with the Heathrow PUD to the west and Colonial

Center Heathrow PUD to the east. The Heathrow and Colonial Center Heathrow PUDs have the PD (Planned Development) Future Land Use Designation. The approved uses of single-family, multi-family and office in the Heathrow and Colonial Center Heathrow PUDs is a compatible transitional land use adjacent to the proposed daycare, per *Exhibit FLU: Appropriate Transitional Lands Uses*.

*Exhibit FLU: Appropriate Transitional Land Uses* states that Suburban Estates and Office are not appropriate transitional land uses adjacent to each other. However, Staff finds that the proposed Development Order mitigates the impacts of the proposed development allowing for it to be considered an appropriate transitional land use.

## **ANALYSIS OVERVIEW:**

### **ZONING REQUEST**

The following tables depict the minimum regulations for the current zoning district of A-1 (Agriculture) and the requested district of PUD (Planned Unit Development):

<b>DISTRICT REGULATIONS</b>	<b>Existing Zoning (A-1)</b>
Minimum Lot Size	1-acre
Minimum House Size	N/A
Minimum Width at Building Line	150 feet
Front Yard Setback	50 feet
Side Yard Setback	10 feet
(Street) Side Yard Setback	50 feet
Rear Yard Setback	30 feet
Maximum Building Height	35 feet

<b>DISTRICT REGULATIONS</b>	<b>Proposed Zoning (PUD)</b>
Minimum Lot Size	N/A
Minimum House Size	N/A
Minimum Width at Building Line	N/A
North Setback from property boundary	25 feet
South Setback from property boundary	10 feet
East Setback from property boundary	10 feet
West Setback from property boundary	10 feet
Maximum Building Height	35 feet

## PERMITTED & SPECIAL EXCEPTION USES

The following table depicts the permitted and special exception uses within the existing and proposed zoning districts:

Uses		A-1 (existing)	PUD (proposed)
Permitted Uses	Agricultural uses such as citrus or other fruit crops cultivation, production and horticulture, truck farms, plant nurseries and greenhouses not involved with retail sales to the general public, silva culture, public and private elementary schools, publicly owned and/or controlled parks and recreation areas, bait production, stables, barns, single-family dwelling including one (1) guesthouse or cottage, docks and boathouses, churches, community residential homes (group homes and foster care facilities) housing six (6) or fewer permanent unrelated residents.		Daycare with a maximum allowable building square footage of 15,000 square feet.
Special Exception Uses	Cemeteries and mausoleums, kennels including the commercial raising or breeding of dogs, hospitals, sanitariums and convalescent homes, veterinary clinics and assisted living facilities and group homes, public and private nursery schools, kindergartens, middle schools, high schools and colleges, public utility and service structures, fishing camps, marinas, gun clubs, or similar enterprises or clubs making use of land with nominal impacts to natural resources, privately owned and operated recreational facilities open to the paying public, such as athletic fields, stadium, racetracks, and speedways, golf driving ranges, riding stables, water plants, and sanitary landfill operations, off-street parking lots, farm worker housing, mobile homes, retail nurseries, landscaping contractors as an accessory use to a wholesale nursery or wholesale tree farm, communication towers, bed and breakfast establishments.		None
Minimum Lot Size		1-Acre	N/A

## COMPATIBILITY WITH SURROUNDING PROPERTIES

Staff has reviewed the proposed Small Scale Land Use Amendment and has determined that it is compatible with surrounding properties because the subject property is infill development and consistent with the surrounding development patterns. The property is located between the Heathrow PUD (West) and the Colonial Center Heathrow PUD (East). North of the property is the Grande Oaks PUD which is approved for townhomes. East of the subject property is an existing lake and Tract P of Colonial Center Heathrow, which has Office and Multi-family as allowable uses. West of the property is an existing lake and the Heathrow PUD, which consists of single-family and patio homes. An existing single-family home is south of the property and the applicant is proposing to buffer the proposed use from the existing single-family residence.

The applicant is proposing a 10' landscaped buffer for the southern property boundary, including a pedestrian access easement to Banana Lake Road to allow for access to the Paola Cemetery, per Florida Statute Section 704.08. The southern landscaped buffer is 10' in width and will include a 6' masonry wall and 8 canopy trees per 100'.

## **SITE ANALYSIS:**

### **ENVIRONMENTAL IMPACTS**

#### *Floodplain Impacts:*

Based on FIRM map 12117C0040E, with an effective date of 1995, there appears to be no floodplains on the subject property.

#### *Wetland Impacts:*

Based on preliminary aerial photo and County wetland map analysis, there appears to be no wetlands on the subject property.

#### *Endangered and Threatened Wildlife:*

Based on a preliminary analysis, there appear to be endangered and threatened wildlife on the subject property. A listed species survey will be required prior to final engineering approval.

### **PUBLIC FACILITY IMPACTS**

Rule 9J-5.0055(3), Florida Administrative Code, requires that adequate public facilities and services be available concurrent with the impacts of development. The applicant has elected to defer Concurrency Review at this time. The applicant will be required to undergo Concurrency Review prior to final engineering approval.

The following table depicts the impacts the proposed development has on public facilities:

<b>Public Facility</b>	<b>Existing Future Land Use (PUB) (SE)</b>	<b>Proposed Land Use (OFF) Calculated as a daycare</b>	<b>Net Impact</b>
Water (GPD)	0	4,000	+4,000
Sewer (GPD)	0	4,000	+4,000
Traffic (ADT)	0	896	+896

### *Utilities:*

The site is located in the Northwest Seminole County utility service area, and will be required to connect to public utilities. There is a 16-inch water main on the east side of Banana Lake Rd. and a 16-inch force main on the east side of Banana Lake Rd. There is a 10-inch reclaimed water main on the north side of C.R. 46A. The subject property will be required to connect to reclaimed water.

### *Transportation / Traffic:*

The property proposes access onto Banana Lake Road, which is classified as a local road. Banana Lake Road is currently operating at a level-of-service "A" and does not have improvements programmed in the County 5-year Capital Improvement Program.

### *Public Safety:*

The County Level-Of-Service standard for fire protection and rescue, per Policy PUB 2.1 of the Comprehensive Plan, is 5 minutes average response time. The nearest response unit to the subject property is Station #37, which is located at 911 Wallace Court. Based on an average of two minutes per mile, the average response time to the subject property is less than 5 minutes.

### *Drainage:*

The proposed project is located within the Yankee Lake Drainage Basin, and does not have a positive legal outfall. The site will have to be designed to hold 100-year, 24-hour total retention.

### *Buffers and Sidewalks:*

The following buffering standards contained in the attached Development Order will apply:

- a. North: 10' buffer containing 4 canopy and 4 understory trees every 100' and a 3' continuous hedge
- b. South: 10' landscaped buffer containing 8 canopy trees per 100' and a 6' brick or masonry wall to the west edge of the fenced in grave yard then a 5' landscaped buffer with 4 canopy and 4 understory trees every 100' for the duration of fenced in grave yard and then a 10' landscaped buffer east of the fenced in grave yard with 4 canopy and 4 understory trees every 100'.
- c. East: 10' buffer containing 4 canopy and 4 understory trees every 100'
- d. West: 10' buffer containing 4 canopy trees and 4 understory trees every 100' and a 6' brick or masonry wall.

## **APPLICABLE POLICIES:**

### **FISCAL IMPACT ANALYSIS**

This project does not warrant running the County Fiscal Impact Analysis Model.

### **SPECIAL DISTRICTS**

The subject property is not located within any Overlay Districts.

### **COMPREHENSIVE PLAN (VISION 2020)**

The County's Comprehensive Plan is designed to preserve and enhance the public health, safety and welfare through the management of growth, provision of adequate public services and the protection of natural resources.

The proposed project is consistent with the following list of policies (there may be other provisions of the Comprehensive Plan that apply that are not included in this list):

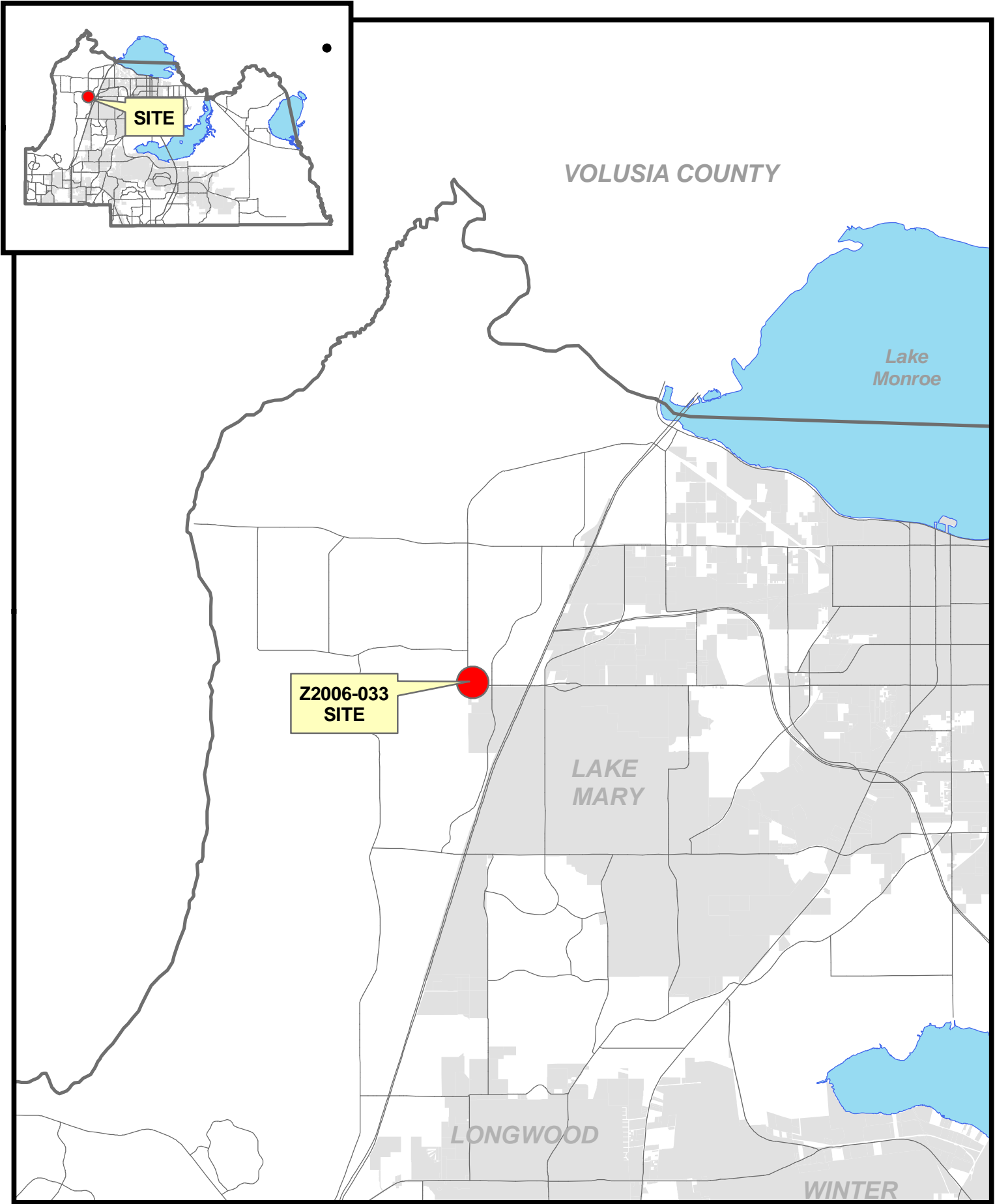
Policy FLU	1.9:	Historic and Archaeological Resources and National Park Services
Policy FLU	2.3:	Roadway Compatibility
Policy FLU	2.11:	Determination of Compatibility in the Planned Unit Development Zoning Classification
Policy FLU	2.12	On-Site Traffic Flow
Policy FLU	4.2	Infill Development
Policy POT	4.5:	Potable Water Connection
Policy SAN	4.4:	Sanitary Sewer Connection
Policy PUB	2.1:	Public Safety Level-of-Service

## **INTERGOVERNMENTAL NOTIFICATION:**

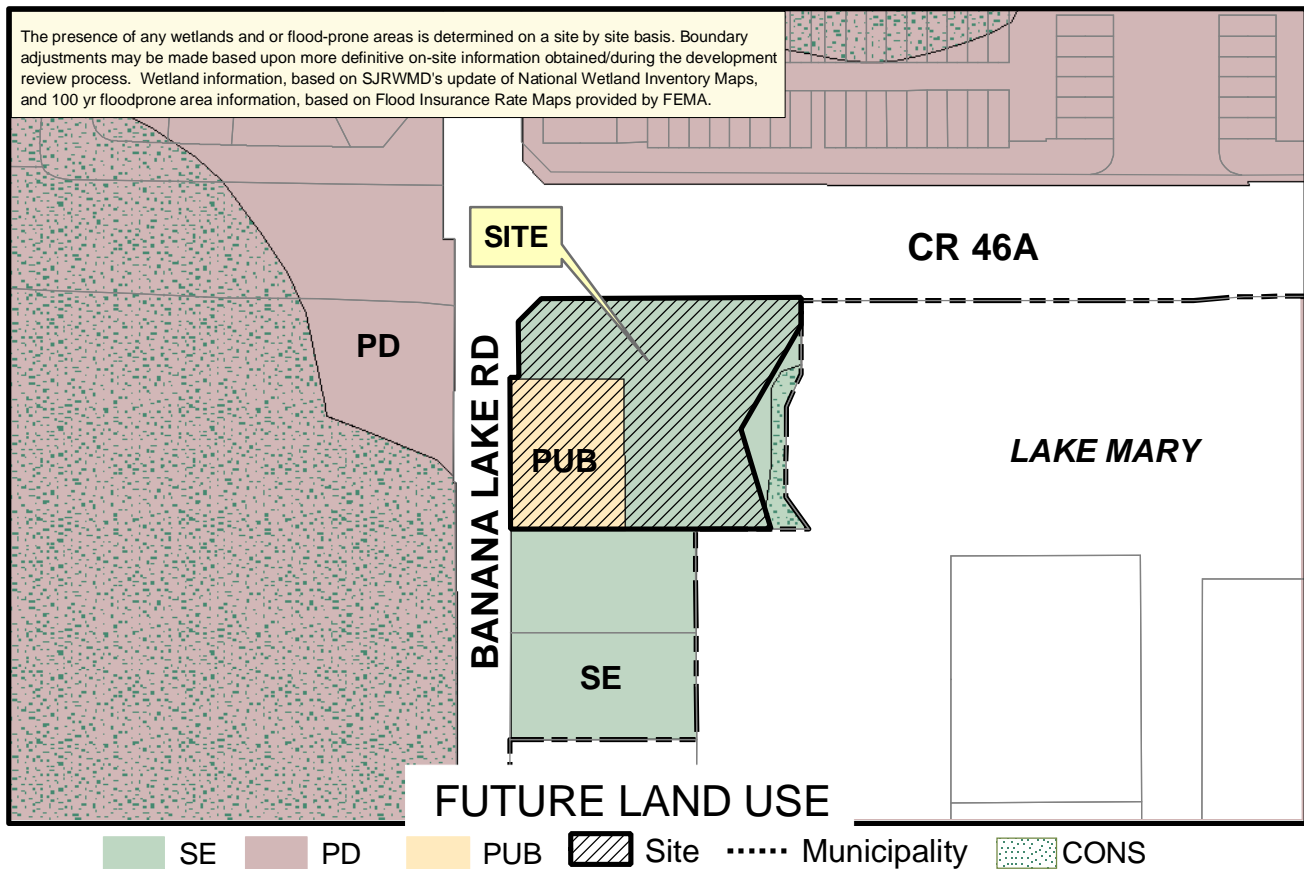
An Intergovernmental notice was sent to the City of Lake Mary on June 22, 2007.

## **LETTERS OF SUPPORT OR OPPOSITION:**

A letter of concern was received on July 14, 2007, which is attached.



The presence of any wetlands and or flood-prone areas is determined on a site by site basis. Boundary adjustments may be made based upon more definitive on-site information obtained/during the development review process. Wetland information, based on SJRWMD's update of National Wetland Inventory Maps, and 100 yr floodprone area information, based on Flood Insurance Rate Maps provided by FEMA.



Applicant: Bright Horizons Daycare

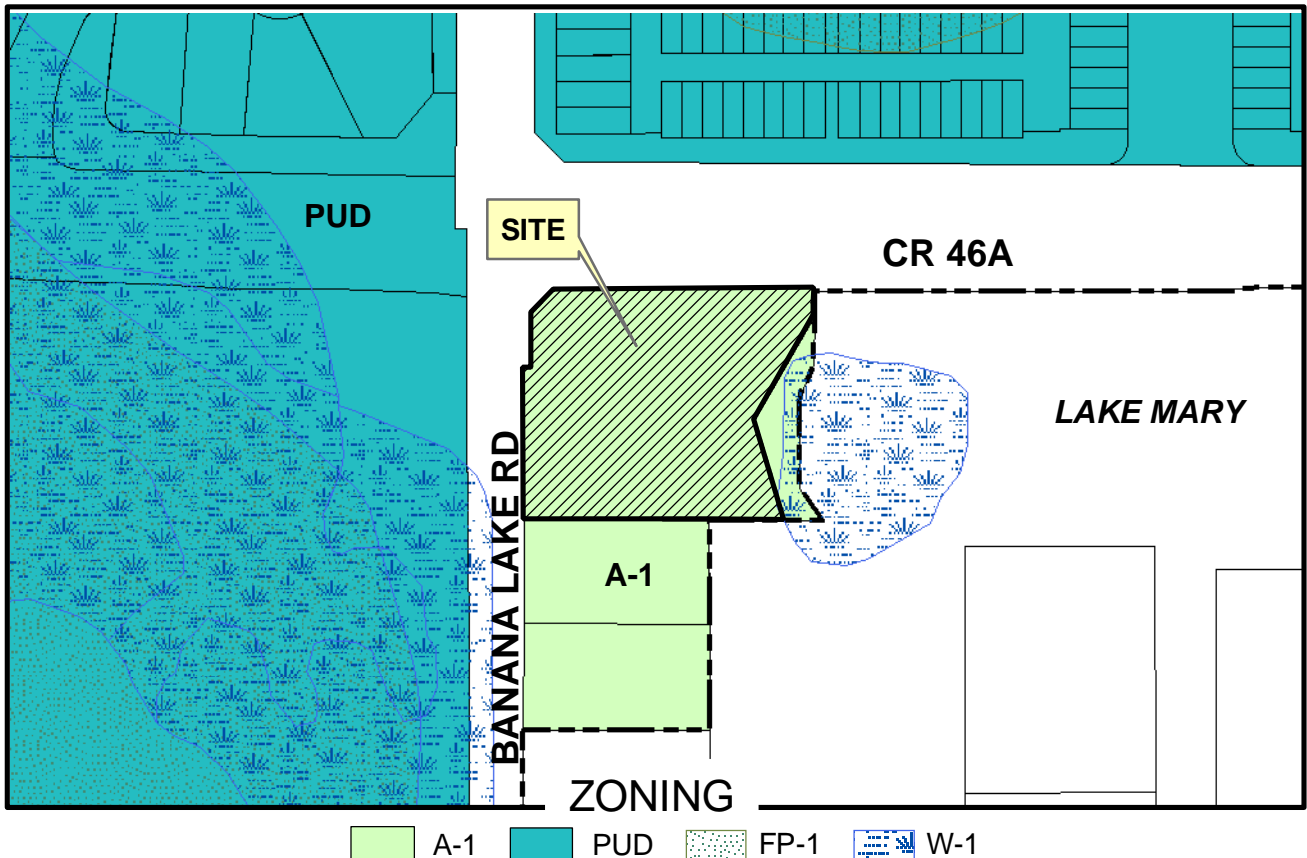
Physical STR: 06-20-30-300-0080-0000

Gross Acres: 1.61 +/- BCC District: 5

Existing Use: vacant

Special Notes: \_\_\_\_\_

	Amend/ Rezone#	From	To
FLU	08-07SS.01	PUB/SE	OFF
Zoning	Z2007-033	A-1	PUD







FLU No: 08-07SS.01  
From: PUB/SE To: OFF

Rezone No: Z2007-033  
From: A-1 To: PUD



Parcel



Subject Property



Winter 2006 Color Aerials





**Z2007-26****DEVELOPMENT ORDER #07-20500002****SEMINOLE COUNTY DEVELOPMENT ORDER**

On October 9, 2007, Seminole County issued this Development Order relating to and touching and concerning the following property described in the attached legal description as Exhibit "A".

(The aforementioned legal description has been provided to Seminole County by the owner of the subject property.)

**FINDINGS OF FACT**

**Property Owner(s):** Dana and James Froehlich

**Project Name:** Bright Horizons PUD

**Requested Development Approval:** Rezone from A-1 (Agriculture) to PUD (Planned Unit Development).

The Development Approval sought is consistent with the Seminole County Comprehensive Plan and will be developed consistent with and in compliance to applicable land development regulations and all other applicable regulations and ordinances.

The owner of the property has expressly agreed to be bound by and subject to the development conditions and commitments stated below and has covenanted and agreed to have such conditions and commitments run with, follow and perpetually burden the aforescribed property.

Prepared by: Austin Watkins  
1101 East First Street  
Sanford, Florida 32771

**NOW, THEREFORE, IT IS ORDERED AND AGREED THAT:**

- (1) The aforementioned application for development approval is **GRANTED**.
- (2) All development shall fully comply with all of the codes and ordinances in effect in Seminole County at the time of issuance of permits including all impact fee ordinances.
- (3) The conditions upon this development approval and the commitments made as to this development approval, all of which have been accepted by and agreed to by the owner of the property are as follows:
  - A. The project shall have a maximum allowable building square footage of 15,000 square feet.
  - B. Daycare shall be the only permitted use.
  - C. All activities shall occur in accordance with Florida Statutes for the removal or relocation of human remains or associated items.
  - D. The applicant must complete a cultural resource assessment survey and ground-penetrating radar to determine if human remains are present within this property consistent with the Florida Department of State, Division of Historical Resources. The applicant must provide a copy of the cultural resource assessment survey and ground-penetrating radar to the Seminole County Planning Division, once the studies are complete.
  - E. If human remains are found on-site and they are not completely relocated a pedestrian ingress and egress easement shall be provided to the location of the human remains.
  - F. The applicant shall provide one parking space for every full-time employee and at least one parking space for every 20 children.
  - G. Lighting shall not exceed 16' in height and shall be in the shoe-box cut-off style with no more than 0.25 footcandles of spillage on adjacent properties.
  - H. The setbacks shall be as follows:
    - North: 25'
    - South: 25'
    - East: 10'
    - West: 25'
  - I. The buffers shall be as follows:
    - North: 10' landscaped buffer with 4 canopy and 4 under-story trees every 100' and a 3' hedge.
    - South: 10' landscaped buffer containing 8 canopy trees per 100' and a 6' brick or masonry wall to the west edge of the fenced in grave yard then a 5' landscaped buffer with 4 canopy and 4 understory trees every 100' for the duration of fenced

in graded yard and then a 10' landscaped buffer east of the fenced in grave yard with 4 canopy and 4 understory trees every 100'.

East: 10' landscaped buffer with 4 canopy and 4 understory trees every 100'.

West: 10' landscaped buffer with 4 canopy and 4 understory trees every 100', 6' brick or masonry wall.

- J. Parking areas shall comply with the Lake Mary Boulevard Gateway Corridor Overlay District standards.
- K. All mechanical equipment, ground or roof-mounted, shall be screened from off-site view.
- L. Development shall comply with the Preliminary Master Plan attached as Exhibit "B".
- M. 25% usable open space shall be provided.
- N. The maximum allowable building height is 35'.
- O. The developer shall provide a pedestrian circulation system giving access to all portions of the development as well as connecting to existing sidewalks outside the development.

(4) This Development Order touches and concerns the aforescribed property and the conditions, commitments and provisions of this Development Order shall perpetually burden, run with and follow the said property and be a servitude upon and binding upon said property unless released in whole or part by action of Seminole County by virtue of a document of equal dignity herewith. The owner of the said property has expressly covenanted and agreed to this provision and all other terms and provisions of this Development Order.

(5) The terms and provisions of this Order are not severable and in the event any portion of this Order shall be found to be invalid or illegal then the entire order shall be null and void.

**Done and Ordered on the date first written above.**

**SEMINOLE COUNTY BOARD OF  
COUNTY COMMISSIONERS**

**By:** \_\_\_\_\_  
Carlton D. Henley, Chairman

**OWNERS' CONSENT AND COVENANT**

COMES NOW, the owner, Dana Froehlich, on behalf of itself and its heirs agents, successors, assigns or transferees of any nature whatsoever and consents to, agrees with and covenants to perform and fully abide by the provisions, terms, conditions and commitments set forth in this Development Commitment Agreement.

WITNESSES:

OWNER:

\_\_\_\_\_  
Print Name:\_\_\_\_\_

Dana Froehlich

\_\_\_\_\_  
Print Name:\_\_\_\_\_\_\_\_\_\_  
Dana Froehlich

STATE OF FLORIDA

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2007, by \_\_\_\_\_,  
as \_\_\_\_\_, who is personally known to me or who has  
produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public\_\_\_\_\_  
(Name of Notary, typed, printed or stamped)  
My Commission Expires:

**OWNERS' CONSENT AND COVENANT**

COMES NOW, the owner, James Froehlich, on behalf of itself and its heirs agents, successors, assigns or transferees of any nature whatsoever and consents to, agrees with and covenants to perform and fully abide by the provisions, terms, conditions and commitments set forth in this Development Commitment Agreement.

WITNESSES:

OWNER:

\_\_\_\_\_  
Print Name:\_\_\_\_\_

James Froehlich

\_\_\_\_\_  
Print Name:\_\_\_\_\_\_\_\_\_\_  
James Froehlich

STATE OF FLORIDA

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2007, by \_\_\_\_\_, as \_\_\_\_\_, who is personally known to me or who has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public\_\_\_\_\_  
(Name of Notary, typed, printed or stamped)

My Commission Expires:

My Commission Expires:

**EXHIBIT "A"****Legal Description**

COMMENCING AT THE NORTHWEST CORNER OF SECTION 6, TOWNSHIP 20 SOUTH, RANGE 30 EAST; THENCE S89°52'10"E, ALONG THE NORTH LINE OF SAID SECTION 6, A DISTANCE OF 332.67 FEET; THENCE S00°07'50"W, A DISTANCE OF 103.28 FEET TO THE POINT OF BEGINNING; THENCE RUN S29°44'07"W, A DISTANCE OF 117.57 FEET; THENCE S16°45'53"E, A DISTANCE OF 114.24 FEET; THENCE N89°52'10"W, A DISTANCE OF 279.99 FEET TO THE EAST RIGHT OF WAY LINE OF BANANA LAKE ROAD; THENCE N00°27'04"W, ALONG SAID EAST RIGHT OF WAY LINE, A DISTANCE OF 229.82 FEET; THENCE N44°50'23" E, A DISTANCE OF 35.18 FEET TO A POINT OF THE SOUTH RIGHT OF WAY LINE OF COUNTY ROAD 46A; THENCE S89°52'10"E, ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 282.45 FEET; THENCE DEPARTING SAID RIGHT OF WAY LINE, RUN S00°07'50"W, A DISTANCE OF 43.28 FEET TO THE POINT OF BEGINNING.

CONTAINING 1.61 ACRES (70,198 SQ. FT.), MORE OR LESS.



DEVELOPMENT ORDER #

07-22000006

**EXHIBIT "B"**

**Preliminary Master Plan**



AN ORDINANCE AMENDING, PURSUANT TO THE LAND DEVELOPMENT CODE OF SEMINOLE COUNTY, THE ZONING CLASSIFICATIONS ASSIGNED TO CERTAIN PROPERTY LOCATED IN SEMINOLE COUNTY (LEGAL DESCRIPTION ATTACHED AS EXHIBIT); ASSIGNING CERTAIN PROPERTY CURRENTLY ASSIGNED THE A-1 (AGRICULTURE) ZONING CLASSIFICATION THE PUD (PLANNED UNIT DEVELOPMENT) ZONING CLASSIFICATION; PROVIDING FOR LEGISLATIVE FINDINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR EXCLUSION FROM CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA:

**Section 1. LEGISLATIVE FINDINGS.**

(a) The Board of County Commissioners hereby adopts and incorporates into this Ordinance as legislative findings the contents of the documents titled "Bright Horizons Daycare Small Scale Land Use Amendment and Rezone."

(b) The Board hereby determines that the economic impact statement referred to by the Seminole County Home Rule Charter is unnecessary and waived as to this Ordinance.

**Section 2. REZONINGS.** The zoning classification assigned to the following described property is changed from A-1 (Agriculture) to PUD (Planned Unit Development):

**SEE ATTACHED EXHIBIT A**

**Section 3. EXCLUSION FROM CODIFICATION.** It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall not be codified.

**Section 4. SEVERABILITY.** If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, it is the intent of the Board of County Commissioners that the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

**Section 5. EFFECTIVE DATE.** A certified copy of this Ordinance shall be provided to the Florida Department of State by the Clerk of the Board of County Commissioners in accordance with Section 125.66, Florida Statutes, and this Ordinance shall be effective upon the date of filing with the Department and recording of Development Order #07-22000006.

ENACTED this 9th day of October 2007.

BOARD OF COUNTY COMMISSIONERS  
SEMINOLE COUNTY, FLORIDA

By: \_\_\_\_\_  
Carlton D. Henley  
Chairman

**EXHIBIT "A"**  
**LEGAL DESCRIPTION:**

COMMENCING AT THE NORTHWEST CORNER OF SECTION 6, TOWNSHIP 20 SOUTH, RANGE 30 EAST; THENCE S89°52'10"E, ALONG THE NORTH LINE OF SAID SECTION 6, A DISTANCE OF 332.67 FEET; THENCE S00°07'50"W, A DISTANCE OF 103.28 FEET TO THE POINT OF BEGINNING; THENCE RUN S29°44'07"W, A DISTANCE OF 117.57 FEET; THENCE S16°45'53"E, A DISTANCE OF 114.24 FEET; THENCE N89°52'10"W, A DISTANCE OF 279.99 FEET TO THE EAST RIGHT OF WAY LINE OF BANANA LAKE ROAD; THENCE N00°27'04"W, ALONG SAID EAST RIGHT OF WAY LINE, A DISTANCE OF 229.82 FEET; THENCE N44°50'23" E, A DISTANCE OF 35.18 FEET TO A POINT OF THE SOUTH RIGHT OF WAY LINE OF COUNTY ROAD 46A; THENCE S89°52'10"E, ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 282.45 FEET; THENCE DEPARTING SAID RIGHT OF WAY LINE, RUN S00°07'50"W, A DISTANCE OF 43.28 FEET TO THE POINT OF BEGINNING.

CONTAINING 1.61 ACRES (70,198 SQ. FT.), MORE OR LESS.



**AN ORDINANCE FURTHER AMENDING ORDINANCE NUMBER 91-13, AS PREVIOUSLY AMENDED, KNOWN AS THE SEMINOLE COUNTY COMPREHENSIVE PLAN; AMENDING THE FUTURE LAND USE MAP OF THE SEMINOLE COUNTY COMPREHENSIVE PLAN BY VIRTUE OF SMALL SCALE DEVELOPMENT AMENDMENT (LEGAL DESCRIPTION IS SET FORTH AS AN APPENDIX TO THIS ORDINANCE); CHANGING THE FUTURE LAND USE DESIGNATION ASSIGNED TO CERTAIN PROPERTY FROM PUBLIC AND SUBURBAN ESTATES TO OFFICE; PROVIDING FOR LEGISLATIVE FINDINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR EXCLUSION FROM THE SEMINOLE COUNTY CODE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Board of County Commissioners of Seminole County enacted Ordinance Number 91-13 which adopted the 1991 Seminole County Comprehensive Plan (“the Plan”), which Plan has been subsequently amended from time-to-time and in accordance with State law; and

**WHEREAS**, the Board of County Commissioners has followed the procedures set forth in Sections 163.3184 and 163.3187, Florida Statutes, in order to further amend certain provisions of the Plan as set forth herein relating to a Small Scale Development Amendment; and

**WHEREAS**, the Board of County Commissioners has substantially complied with the procedures set forth in the Implementation Element of the Plan regarding public participation; and

**WHEREAS**, the Seminole County Local Planning Agency held a Public Hearing, with all required public notice, July 11, 2007 for the purpose of providing recommendations to the Board of County Commissioners with regard to the Plan amendment set forth herein; and

**WHEREAS**, the Board of County Commissioners held a Public Hearing on October 9, 2007, with all required public notice for the purpose of hearing and considering the recommendations and comments of the general public, the Local Planning Agency, other

public agencies, and other jurisdictions prior to final action on the Plan amendment set forth herein; and

**WHEREAS**, the Board of County Commissioners hereby finds that the Plan, as amended by this Ordinance, is internally consistent, is consistent and compliant with the provisions of State law including, but not limited to, Part II, Chapter 163, Florida Statutes, the State Comprehensive Plan, and the Comprehensive Regional Policy Plan of the East Central Florida Regional Planning Council.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA:

**Section 1. RECITALS/LEGISLATIVE FINDINGS:**

- (a) The above recitals are true and correct and form and include legislative findings which are a material part of this Ordinance.
- (b) The Board hereby determines that the economic impact statement referred to by the Seminole County Home Rule Charter is unnecessary and waived as to this Ordinance.

**Section 2. AMENDMENT TO COUNTY COMPREHENSIVE PLAN FUTURE LAND USE DESIGNATION:**

- (a) The Future Land Use Element's Future Land Use Map as set forth in Ordinance Number 91-13, as previously amended, is hereby further amended by amending the future land use designation assigned to the following property and which is depicted on the Future Land Use Map and further described in the attached Appendix "A" to this Ordinance:

Amendment Appendix "A"

- (b) The associated rezoning request was completed by means of Ordinance Number 07-  
\_\_\_\_\_.



(c) The development of the property is subject to the development intensities and standards permitted by the overlay Conservation land use designation, Code requirements and other requirements of law.

**Section 3. SEVERABILITY:**

If any provision of this Ordinance or the application to any person or circumstance is held invalid, it is the intent of the Board of County Commissioners that the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application and, to this end, the provisions of this Ordinance are declared severable.

**Section 4. EXCLUSION FROM COUNTY CODE/CODIFICATION:**

(a) It is the intent of the Board of County Commissioners that the provisions of this Ordinance shall not be codified into the Seminole County Code, but that the Code Codifier shall have liberal authority to codify this Ordinance as a separate document or as part of the Land Development Code of Seminole County in accordance with prior directions given to said Code Codifier.

(b) The Code Codifier is hereby granted broad and liberal authority to codify and edit the provisions of the Seminole County Comprehensive Plan, as amended.

**Section 5. EFFECTIVE DATE:**

(a) A certified copy of this Ordinance shall be provided to the Florida Department of State and the Florida Department of Community Affairs by the Clerk of the Board of County Commissioners in accordance with Section 125.66 and 163.3187, Florida Statutes.

(b) This ordinance shall take effect upon filing a copy of this Ordinance with the Department of State by the Clerk of the Board of County Commissioners; provided, however,

that the effective date of the plan amendment set forth herein shall be thirty-one (31) days after the date of adoption by the Board of County Commissioners or, if challenged within thirty (30) days of adoption, when a final order is issued by the Florida Department of Community Affairs or the Administration Commission determining that the amendment is in compliance in accordance with Section 163.3184, Florida Statutes, whichever occurs earlier. No development orders, development permits, or land use dependent on an amendment may be issued or commence before an amendment has become effective. If a final order of noncompliance is issued by the Administration Commission, the affected amendment may nevertheless be made effective by the Board of County Commissioners adopting a resolution affirming its effective status, a copy of which resolution shall be provided to the Florida Department of Community Affairs, Bureau of Local Planning, 2555 Shumard Oak Blvd., Tallahassee, Florida 32399-2100 by the Clerk of the Board of County Commissioners.

**ENACTED this 9th day of October 2007.**

**BOARD OF COUNTY COMMISSIONERS  
OF SEMINOLE COUNTY, FLORIDA**

**By:\_\_\_\_\_**

**Carlton D. Henley, Chairman**

APPENDIX A  
Legal Description

COMMENCING AT THE NORTHWEST CORNER OF SECTION 6, TOWNSHIP 20 SOUTH, RANGE 30 EAST; THENCE S89°52'10"E, ALONG THE NORTH LINE OF SAID SECTION 6, A DISTANCE OF 332.67 FEET; THENCE S00°07'50"W, A DISTANCE OF 103.28 FEET TO THE POINT OF BEGINNING; THENCE RUN S29°44'07"W, A DISTANCE OF 117.57 FEET; THENCE S16°45'53"E, A DISTANCE OF 114.24 FEET; THENCE N89°52'10"W, A DISTANCE OF 279.99 FEET TO THE EAST RIGHT OF WAY LINE OF BANANA LAKE ROAD; THENCE N00°27'04"W, ALONG SAID EAST RIGHT OF WAY LINE, A DISTANCE OF 229.82 FEET; THENCE N44°50'23" E, A DISTANCE OF 35.18 FEET TO A POINT OF THE SOUTH RIGHT OF WAY LINE OF COUNTY ROAD 46A; THENCE S89°52'10"E, ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 282.45 FEET; THENCE DEPARTING SAID RIGHT OF WAY LINE, RUN S00°07'50"W, A DISTANCE OF 43.28 FEET TO THE POINT OF BEGINNING.

CONTAINING 1.61 ACRES (70,198 SQ. FT.), MORE OR LESS.

**SEMINOLE COUNTY DENIAL DEVELOPMENT ORDER**

On October 9, 2007, Seminole County issued this Denial Development Order relating to and touching and concerning the following property described in the attached legal description as Exhibit "A".

**Property Owner(s):** Dana and James Froehlich

**Project Name:** Bright Horizons PUD

**Requested Development Approval:** The applicant is requesting to rezone 1.61  $\pm$  acres, located at the southeast corner of the intersection of Banana Lake Road and CR 46A, from A-1 (Agriculture) to PUD (Planned Unit Development).

The Board of County Commissioners has determined that the requested rezone to PUD is not compatible with the surrounding area and could not be supported.

After fully considering staff analysis titled "Bright Horizons Daycare Small Scale Land Use Amendment and Rezone" and all evidence submitted at the public hearing on August 14, 2007, regarding this matter the Board of County Commissioners have found, determined and concluded that the requested PUD rezone should be denied.

**ORDER****NOW, THEREFORE, IT IS ORDERED AND AGREED THAT:**

The aforementioned application for development approval is **DENIED**.

**Done and Ordered on the date first written above.**

**SEMINOLE COUNTY BOARD OF  
COUNTY COMMISSIONERS**

**By:** \_\_\_\_\_  
Carlton D. Henley, Chairman

**EXHIBIT "A"****Legal Description**

COMMENCING AT THE NORTHWEST CORNER OF SECTION 6, TOWNSHIP 20 SOUTH, RANGE 30 EAST; THENCE S89°52'10"E, ALONG THE NORTH LINE OF SAID SECTION 6, A DISTANCE OF 332.67 FEET; THENCE S00°07'50"W, A DISTANCE OF 103.28 FEET TO THE POINT OF BEGINNING; THENCE RUN S29°44'07"W, A DISTANCE OF 117.57 FEET; THENCE S16°45'53"E, A DISTANCE OF 114.24 FEET; THENCE N89°52'10"W, A DISTANCE OF 279.99 FEET TO THE EAST RIGHT OF WAY LINE OF BANANA LAKE ROAD; THENCE N00°27'04"W, ALONG SAID EAST RIGHT OF WAY LINE, A DISTANCE OF 229.82 FEET; THENCE N44°50'23" E, A DISTANCE OF 35.18 FEET TO A POINT OF THE SOUTH RIGHT OF WAY LINE OF COUNTY ROAD 46A; THENCE S89°52'10"E, ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 282.45 FEET; THENCE DEPARTING SAID RIGHT OF WAY LINE, RUN S00°07'50"W, A DISTANCE OF 43.28 FEET TO THE POINT OF BEGINNING.

CONTAINING 1.61 ACRES (70,198 SQ. FT.), MORE OR LESS.

# SMALL SCALE FUTURE LAND USE AMENDMENT AND REZONING APPLICATION – SUPPLEMENTAL INFORMATION

Proposed Bright Horizons Child Care Facility  
Southeast Corner of Banana Lake Road  
and County Road 46A

Parcel ID: 06-20-30-300-0080-0000

Banana Lake Mary, Seminole County, Florida

ASC Project No. 07L1502

ASC Document No. 070215L

7 JUNE 2007

*Applicant:*

Mr. Robert Rossi, P.E.

Director of Construction

Bright Horizons Family Solutions

200 Talcott Avenue, South

Watertown, Massachusetts 02472

phone: 617.673.8036

*Prepared By:*

Mr. Jay Saxena, P.E.

ASC geosciences, inc.

P.O. Box 3644

Lakeland, Florida 33802

phone: 863.644.8300

Submitted To:  
Mr. Austin Watkins  
Seminole County Planning and  
Development Department  
1101 East First Street, Suite 2201  
Sanford, Florida 32771  
phone: 407.885.7440

**ASC geosciences**  
ENGINEERING A BETTER WORLD™

  
**Bright Horizons**  
FAMILY SOLUTIONS



## SUPPLEMENTAL INFORMATION

Mr. Austin Watkins  
Seminole County Planning & Development Department  
1101 East First Street, Suite 2201  
Sanford, Florida 32771

7 June 2007

Subject: Small Scale Future Land Use Amendment and Rezoning Application  
**Proposed Bright Horizons Child Care Facility**  
Southeast Corner of Banana Lake Road and County Road 46A  
Parcel I.D. 06-20-30-300-0080-0000  
Lake Mary, Seminole County, Florida

ASC Project No. 07L1502  
ASC Document No. 070215L

Dear Mr. Watkins:

ASC geosciences, inc. is pleased to submit the enclosed Supplemental Information to the previously submitted Small Scale Future Land Use Amendment and Rezoning Application (ASC Document 070165L dated 24 May 2007) on behalf of Bright Horizons Family Solutions for the subject property referenced above.

Please contact us should you have any questions regarding this application or require additional information. Thank you.

Sincerely,

**ASC geosciences, inc.**

Jay Saxena, P.E.  
Project Manager

■ **physical address:**

ASC geosciences, inc.  
6702 Benjamin Road, Suite 100  
Tampa, Florida 33634

■ **contacts:**

phone: 813.908.0630  
fax: 813.908.0640

 [www.ascworld.net](http://www.ascworld.net)

Mr. Austin Watkins  
Seminole County Planning & Development Department  
**SUPPLEMENTAL INFORMATION Small Scale Future Land Use Amendment and Rezoning Application**  
Proposed Bright Horizons Child Care Facility  
Southeast Corner of Banana Lake Road and County Road 46A  
Parcel I.D. 06-20-30-300-0080-0000  
Lake Mary, Seminole County, Florida  
ASC Project No. 07L1502  
ASC Document No. 070215L

ASC geosciences, inc.  
7 June 2007

On 24 May 2007, ASC geosciences, inc. submitted a **Small Scale Future Land Use Amendment and Rezoning Application (ASC Document No. 070165L)** on behalf of Bright Horizons Family Solutions for the subject property reference above. Please find with this package Supplemental Information addressing the Future Land Use (FLU) Element Goals, Objectives and Policies.

Bright Horizons Family Solutions is requesting to amend the future land use of the subject property from Suburban Estates and Public Grave Site to Office. This land use amendment is consistent to the changing character along County Road 46A.

The Office designation will provide a low intensity land usage and the well landscaped character of the property (see site plan in **ASC Document No. 070165L Appendix B**) will blend with the nearby residential areas north and west of the subject property. The surrounding community will appreciate the proximity of this proposed child care facility to serve families needs.

The proposed use of the subject property as a child care facility is consistent with Seminole County's Vision 2020 Comprehensive Plan by providing adequate public service to enhance the community's public welfare and projected growth needs. As the residential communities in the area begin to grow so too must the facilities to serve these families. The Office designation complies with Seminole County's Vision 2020 Comprehensive Plan Policy FLU 5.2(B) regarding mixed commercial/residential use development by providing a transitional use between low density residential (west of the subject property) and nonresidential uses (east of the subject property).

The requested designation to Office is compatible with future land uses of surrounding areas as primarily residential planned development is located north and west of the subject property, and primarily commercial planned development is located east of the subject property. The Office designation will allow for an ease of transition between these areas. Please see below for responses to the various FLU Goals, Objectives and Policies:

**Policy FLU 1.2-Flood Plain Protection:**

- The proposed project site is not located in a Flood Prone or Flood Zone area.

**Policy FLU 1.3-Wetland Protection:**

- Morgan Environmental did not locate any wetlands on the subject property (**ASC Document 070165L Appendix I**).



**Policy FLU 1.4-Conservation Easements:**

- The proposed project site is not located within a conservation or environmentally protected area. Morgan Environmental was hired and did not locate any wetlands on the subject property (**ASC Document 070165L Appendix I**). In addition, Morgan Environmental did not locate any endangered or threatened species on the subject property, see **ASC Document 070165L Appendix I**.

**Policy FLU 1.9-Historic and Archaeological Resources and National Park Services:**

- The proposed site is not listed as a Florida Master Site or National Park. The Florida Division of Historical Resources was consulted as to the necessary steps to address the cemetery historically located on the subject property. A copy of the letter from the Florida Division of Historical Resources is contained in **ASC Document No. 070165L Appendix H** which indicates that the subject property must be ground-truthed by a qualified professional archaeologist to determine the presence/absence of any burials. Panamerican Consultants Inc. ground-truthed the subject property and a copy of their report is also contained in **ASC Document No. 070165L Appendix H**. No identifiable human remains were recovered but intact vaults were present and elements indicative of existing coffins (decorative metal fittings and coffin nails, screws, and tabs) were discovered on the subject property. Panamerican recommends additional work at the subject property consisting of ground-penetrating radar (GPR) to insure that all of the grave shafts have been located and a literature and records search at the Presbyterian Church Archives in Philadelphia for death and burial records, see Panamerican letter in **ASC Document No. 070165L Appendix H**. This plan was developed in consultation with the State Historic Preservation Office. This additional work will be completed prior to any construction activities at the subject property. Bright Horizons Family Solutions will take every step necessary to assure that the cemetery is handled with the utmost respect and will be completed in conjunction with the State Historic Preservation Office. Bright Horizons Family Solutions recommends that the archeological plan (GPR and literature/records search) be included as a special condition for the rezoning and future land use of the subject property.

**Policy FLU 2.3-Roadway Compatibility:**

- The proposed project site is located at the intersection of Banana Lake Road and County Road 46A. At this time the proposed site is an undeveloped parcel which has seen significant growth occur in the surround area. Thus, the project site would be developed in harmony with the current setback and buffer requirements allowing for future roadway improvements. The proposed development, as seen in the submitted site plan (**ASC Document 070165L Appendix B**), provides an appropriate transition between residential and non-residential communities. Traffic

that would be accessing the site already travels on County Road 46A and Banana Lake Road for access to I-4. Interstate I-4 is located approximately one-half mile east of the subject property and this day care facility will efficiently use the existing infrastructure and discourage urban sprawl.

**Policy FLU 2.5-Transitional Land Use:**

- The proposed use of the subject property, Family Solutions/Child Care, is an appropriate transitional land use to support the residential growth that has occurred in the area. Thus, keeping in place the harmony of the area and providing a much needed service to the surrounding community.

**Policy FLU 5.5-Water and Sewer Service Expansion:**

- Water and sewer service is provided by the Seminole County Environmental Services Department. A water and sewer provider letter indicating capacity to serve the proposed development on the subject property is contained in **ASC Document 070165L Appendix G**.

**Policy FLU 5.18-Protection of Residential Neighborhoods, Viable Economic Corridors and Natural Resources:**

- The addition of a family solutions/child care Facility would only enhance the residential neighborhood, providing a much needed service to the community and providing additional real estate value. Additionally, the location of the proposed project serves travelers already traveling on the surround roads.

**Policy FLU 6.1-Development Orders, Permits and Agreements:**

- The Site Developer will seek all appropriate permits for development of the family solutions/child care facility. Additionally, the Developer will work with the County to address any applicable development orders.

**Policy FLU 12.4-Relationship of Land Use to Zoning Classifications:**

- The proposed use of the subject property as a family solutions/child care facility is consistent with Seminole County's Vision 2020 Comprehensive Plan by providing adequate public service to enhance the community's public welfare and projected growth needs. As the residential communities in the area begin to grow so too must the facilities to serve these families. The Office designation complies with Seminole County's Vision 2020 Comprehensive Plan Policy FLU 5.2(B) regarding mixed commercial/residential use development by providing a transitional use between low density residential (west of the subject property) and nonresidential uses (east of the subject property).

**Evaluation Criteria:**

**A. Whether the character of the surrounding area has changed enough to warrant a different land use designation being assigned to the property:**

- The subject property is currently vacant, wooded land. The subject property historically contained a church and cemetery which burned down in 1894. The subject property contains broken and vandalized tombstones from this historic cemetery. See **Section 3.3** for a further archaeological discussion regarding the historic cemetery.

Bright Horizons Family Solutions is requesting amending the future land use of the subject property from Suburban Estates and Public Grave Site to Office. This land use amendment is consistent to the changing character along County Road 46A.

The Office designation will provide a low intensity land usage and the well landscaped character of the property (see site plan in **Appendix B**) will blend with the nearby residential areas north and west of the subject property. The surrounding community will appreciate the proximity of this proposed child care facility to serve families needs.

The proposed use of the subject property as a child care facility is consistent with Seminole County's Vision 2020 Comprehensive Plan by providing adequate public service to enhance the community's public welfare and projected growth needs. As the residential communities in the area begin to grow so too must the facilities to serve these families. The Office designation complies with Seminole County's Vision 2020 Comprehensive Plan Policy FLU 5.2(B) regarding mixed commercial/residential use development by providing a transitional use between low density residential (west of the subject property) and nonresidential uses (east of the subject property).

**B. Whether public facilities and services will be available concurrent with the impacts of development at adopted level of service**

- Development of the area has already occurred. The addition of this project would only provide much support of needed services by the way of family solutions.

**C. Whether the site is suitable for the proposed use and will be able to comply with flood prone regulations, wetland regulations and all other adopted development regulations**

- The project site is not located in a flood prone area. Morgan Environmental did not locate any wetlands on the subject property (Appendix I of ASC Document No. 070165L). Morgan Environmental did not locate any endangered or threatened species on the subject property (Appendix I of ASC Document No. 070165L).

**D. Whether the proposal adheres to other special provisions of law (e.g. Wekiva River Protection Act).**

- The project site does not fall within the Wekiva River Basin. Additionally, it is not immanently know of any other special provisions that exist in this area.

**E. Whether the proposed use is compatible with surrounding development in terms of community impacts and adopted design standards of Land Development Code.**

- The proposed use of the subject property as a child care facility is consistent with Seminole County's Vision 2020 Comprehensive Plan by providing adequate public service to enhance the community's public welfare and projected growth needs. As the residential communities in the area begin to grow so too must the facilities to serve these families. The Office designation complies with Seminole County's Vision 2020 Comprehensive Plan Policy FLU 5.2(B) regarding mixed commercial/residential use development by providing a transitional use between low density residential (west of the subject property) and nonresidential uses (east of the subject property).

**F. Whether the proposed use furthers the public interest by providing:**

**1. sites for public facilities or facility improvements in excess of requirements likely to arise from development of the site.**

- Site is already in a developed area and the proposed project provides a service needed by the surrounding community.

**2. Dedications or contributions in excess of Land Development Code requirements.**

- Not applicable

**3. Affordable Housing**

- Not applicable

**4. Economic Development**

- Not applicable

**5. Reduction in Transportation impacts on area-wide roads;**

- Proposed project will support already occurring traffic passing by site.

**6. Mass transit**

- Not applicable

**7. Whether the proposed land use designation is consistent with any applicable Plan policies, the Strategic Regional Policy Plan and the State Comprehensive Plan.**

- The proposed use of the subject property as a child care facility is consistent with Seminole County's Vision 2020 Comprehensive Plan by providing adequate public service to enhance the community's public welfare and projected growth needs. As the residential communities in the area begin to grow so too must the facilities to serve these families. The Office designation complies with Seminole County's Vision 2020 Comprehensive Plan Policy FLU 5.2(B) regarding mixed commercial/residential use development by providing a transitional use between low density residential (west of the subject property) and nonresidential uses (east of the subject property).



FLORIDA DEPARTMENT OF STATE

Kurt S. Browning

Secretary of State

DIVISION OF HISTORICAL RESOURCES

RECEIVED

MAR 30 2007

ASC geosciences, inc.  
Lakeland, Florida

Ms. Andrea N. Golli  
ASC geosciences, inc.  
P. O. Box 3644  
Lakeland, Florida 33802

Re: Proposed Future Land Use Amendment for 1.58 Parcel  
ASC Project NO. 07L1502; ASC Document No. 070099L  
Seminole County / DHR Project File No. 2007-1692

Dear Ms. Golli.

According to this agency's responsibilities under Sections 163.3177 and 163.3178, *Florida Statutes*, Chapter 9J-5, *Florida Administrative Code*, and any appropriate local ordinances, we reviewed the proposed comprehensive plan amendment consisting of 1.58 acres. This small tract reportedly formerly contained a church and cemetery which burned down in 1894. The burials were reportedly relocated at some point. In 2000, a thermal imaging survey of the property was conducted to determine presence/absence of burials. A very poor copy of this report was submitted to this agency with the project information.

Consultation with several other archaeologists about thermal imaging techniques being able to determine the location of older burials revealed concerns about this technique in situations such as this. Therefore, it is the opinion of this agency that the small project area must be ground truthed by a qualified professional archaeologist to determine presence/absence of any burials. As the requirements of Chapter 872, *Florida Statutes*, must be followed if unmarked human remains are encountered, it is much more efficient to determine presence/absence prior to the commencement of project activities. The resultant survey report must conform to the specifications set forth in Chapter 1A-46, *Florida Administrative Code*, and be forwarded to this agency for comment in order to complete the process of reviewing the impact of this proposed project on historic properties.

If you have any questions concerning our comments, please do not hesitate to contact Susan Harp at (850) 245-6333. Thank you for your interest in protecting Florida's historic resources.

Sincerely,

Frederick P. Gaske, Director

500 S. Bronough Street • Tallahassee, FL 32399-0250 • <http://www.flheritage.com>

☐ Director's Office  
(850) 245-6300 • FAX: 245-6436

☐ Archaeological Research  
(850) 245-6444 • FAX: 245-6452

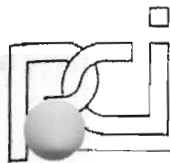
☒ Historic Preservation  
(850) 245-6333 • FAX: 245-6437

☐ Historical Museums  
(850) 245-6400 • FAX: 245-6433

☐ Southeast Regional Office  
(561) 416-2115 • FAX: 416-2149

☐ Northeast Regional Office  
(904) 825-5045 • FAX: 825-5044

☐ Central Florida Regional Office  
(813) 272-3843 • FAX: 272-2340



Panamerican Consultants, Inc.

May 22, 2007

Andrea Golli  
ASC Geosciences  
c/o Bright Horizons  
Robert Rossi  
200 Talcott Avenue S  
Watertown, MS 02472

Re: ASC Project No. 07L1502/DHR Project File 2007-1692  
A 1.58-acre Parcel in Seminole County, Florida

Dear Andrea,

We have developed a plan, in consultation with the Florida State Archaeologist, and he has agreed on behalf of the SHPO (State Historic Preservation Officer) to support the following methodology for the completion of this undertaking. The plan we discussed for rezoning and the future land use amendment includes:

- Ground-penetrating radar (GPR) survey of the entire parcel and adjacent road right-of-way to insure all grave shafts have been located. This is a methodology accepted by the Florida SHPO.
- A literature and records search at the Presbyterian Church Archives in Philadelphia for death and burial records associated with this church cemetery.

Pursuant to our consultation it was recommended that the rezoning of this property include a special condition that these studies and the movement of any burials would be completed prior to development. The aforementioned plan must meet the state requirements (specifically the Division of Historical Resources) concerning this cemetery.

The initial survey of the above-referenced parcel was completed by Panamerican Consultants, Inc., under subcontract to ASC Geosciences, Inc., as requested by the Florida SHPO in a correspondence to Andrea Golli from Fredrick P. Gaske dated March 28, 2007. This survey led to the consultation and plan outlined above.

The plan also includes:

- Excavation and relocation of all existing burials and vaults.
- A letter to known relatives indicating that ground disturbances are planned for the site, and while it is our understanding that the graves have been moved, Bright

ALABAMA  
26th Avenue East  
Tuscaloosa AL 35404  
Phone (205) 556-3096  
FAX (205) 556-1144  
panam@panamconsultants.com

FLORIDA  
5910 Benjamin Center Drive  
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Tampa FL 33634  
Phone (813) 884-6251  
FAX (813) 884-5968  
panamfl@mindspring.com

NEW YORK  
2390 Clinton Street  
Buffalo NY 14227  
Phone (716) 821-1650  
FAX (716) 821-1607  
panamny@mindspring.com

TENNESSEE  
91 Tillman Street  
Memphis TN 38111-2711  
Phone (901) 454-4735  
FAX (901) 454-4736  
panamtn@mindspring.com

Horizons will hire professionals to insure that if any remains are uncovered they will be respectfully placed in the new cemetery lot where the relocation has been approved.

- A funeral director being present during the moving or a portion of the moving of the burials.
- The complete excavation of all graves and any anomalies identified in the GPR survey.

The current relocation area should be sufficient for most of the burials, although some minimal additional space would be set aside for the vaults. The aforementioned plan will meet the state requirements and should be included as a special condition for the rezoning of this parcel and future land use amendment, which should be completed prior to development.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Paul L. Jones', with a stylized flourish extending to the right.

Paul L. Jones, RPA  
Vice President and Senior Archaeologist





Panamerican Consultants, Inc.

Cultural Resource Management  
Terrestrial Archaeology  
Maritime Archaeology  
Architectural History  
Geographic Information Systems



May 14, 2007

Robert Rossi  
Bright Horizons  
200 Talcott Avenue S  
Watertown, MS 02472

Re: ASC Project No. 07L1502/DHR Project File 2007-1692  
A 1.58-acre Parcel in Seminole County, Florida

Dear Andrea,

The following represents an update concerning the ground-truthing completed by Panamerican Consultants, under subcontract to ASC Geosciences, Inc. This service was requested by the Florida State Historic Preservation Officer (SHPO) in correspondence to Andrea Golli from Fredrick P. Gaske dated March 28, 2007, regarding the 1.58-acre Parcel in Seminole County, Florida. Ground-truthing was performed in two separate testing episodes using two separate methodologies. The first was the use of a metal probe to determine the presence/absence of buried resources, especially additional buried or covered vaults not identified in the thermal imaging report of June 15, 2000. Following the result of the probing survey, shovel testing and coring was completed in those areas determined to be likely grave sites. The results of the testing indicated the presence of burials. This includes decorative metal fittings (See Figure 1), brick from additional vaults, iron braces, and wood screws with wood adhering consistent with coffin hardware, portions of a glass coffin viewing window, an iron thumbscrew and numerous coffin nails, screws, and metal tabs (Figure 2).

No identifiable human remains were recovered, but the acid soils of this area would make preservation of any remains minimal. Because intact vaults are present, and significant coffin remains are evident, it appears that the assertion that the bodies were relocated at some point in the past is problematic. It is our opinion that if this relocation took place, only some remains were relocated and that at least some burials may still be in their original location. Since the individual who claimed the burials had been relocated has since died himself, we have not been able to obtain first-hand information concerning this work. Even if the information were available, the field testing indicates that there are still extant unmoved graves.

Given the likelihood of extant burials we recommend the following work be completed prior to any ground-disturbing activities:

5910 Benjamin Center Drive, Suite 120 ♦ Tampa, Florida 33634  
Phone (813) 884-6351 ♦ Fax (813) 884-5968 ♦ Toll Free (800) 642-1008

Alabama ♦ Florida ♦ Georgia ♦ Louisiana ♦ New York ♦ North Carolina ♦ Tennessee

[www.panamconsultants.com](http://www.panamconsultants.com)

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- Ground-penetrating radar (GPR) survey of the entire parcel and adjacent road right-of-way to insure all grave shafts have been located. This is a methodology accepted by the Florida SHPO.
  - A literature and records search at the Presbyterian Church Archives in Philadelphia for death and burial records associated with this church cemetery. A Philadelphia-area researcher can be contracted to complete this search.

Prior to construction, the relocation of the existing burials should be completed. The current relocation area should be sufficient for most of the burials, although some minimal additional space should be set aside for the vaults. Specifically we would recommend:

- Excavation and relocation of all existing burials and vaults.
- A letter to known relatives indicating that ground disturbances are planned for the site, and while it is your understanding that the graves have been moved, you have hired professionals to insure that if any remains are uncovered they will be respectfully placed in the new cemetery lot where the relocation has been approved.
- Consider having a funeral director present during the moving or a portion of the moving. This is not legally required since they are being relocated to the same cemetery, but is relatively inexpensive and precludes any appearance of impropriety.
- Completely excavate all graves and anomalies identified in the GPR survey.

PCI has held meetings with the Florida State Archaeologist (without specifying the project location) and he has agreed on behalf of the SHPO to support this methodology for the completion of this undertaking. We look forward to assisting you with this sensitive issue and will complete the work in a timely fashion.

Sincerely,

Paul L. Jones, RPA  
Vice President

cc: Kelly Driscoll  
Andrea Golli





Figure 1. F.S. 2.01-2.08 Metal decorative fittings

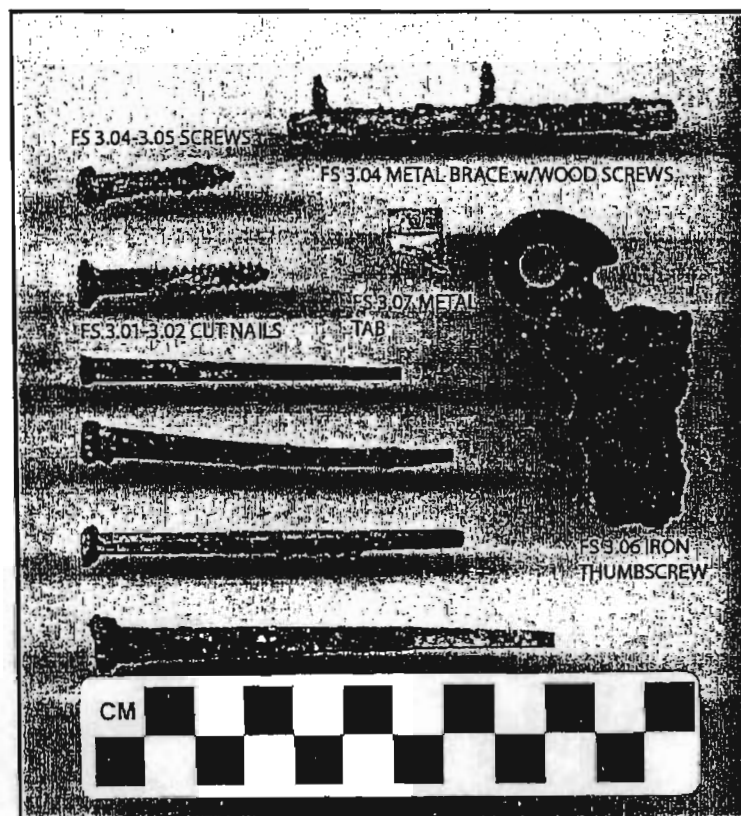


Figure 2. F.S. 3.02-3.07 Iron thumbscrew and numerous coffin nails, screws, and metal tabs



**Watkins, Austin**

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**From:** Tomerlin, Tom  
**Sent:** Monday, June 18, 2007 2:12 PM  
**To:** Watkins, Austin  
**Subject:** FW: Rezone, DHR File No. 1692  
**Attachments:** HumanRemainsIssues.doc

Austin,

With the state saying there is no jurisdiction, I would use some adaptation of their attached stipulation and add additional conditions as discussed with Jay. I think most of the graveyard stipulations are outlined in the consultant report included in the application.

Tom Tomerlin, Principal Planner  
Seminole County Government  
Planning Division  
1101 East First Street  
Sanford, FL 32771  
PH 407.665.7430  
FX 407.665.7385

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**From:** Harp, Susan [mailto:SHarp@dos.state.fl.us]  
**Sent:** Friday, June 15, 2007 3:11 PM  
**To:** Tomerlin, Tom  
**Subject:** RE: Rezone, DHR File No. 1692

Tom - attached you will find some language which may be helpful in approving the land use amendment/zoning change. I spoke with the State Archaeologist about this situation, and he said that because it was a marked graveyard at one point, we do not take jurisdiction -- it is not treated as unmarked human remains. Nevertheless, should the need arise, we can assist in discussing alternatives in dealing with the human remains.

Please do not hesitate to contact us if you have any additional questions.

*Susan M. Harp*  
*Historic Preservation Planner*  
*Division of Historical Resources*  
*R. A. Gray Building*  
*500 S. Bronough Street*  
*Tallahassee, FL 32399-0250*

(850) 245-6333

It is the opinion of the Division of Historical Resources that should this proposed land use and rezoning project be given preliminary approval to proceed with planning and development, this approval should be conditioned upon a cultural resource assessment survey being conducted to determine if human remains are present within this property. This project area must be ground truthed by a qualified professional archaeologist to determine presence/absence of any burials. Once the field work has been conducted and the results known, a report, meeting the standards of Chapter 1A-46, *Florida Administrative Code*, should be submitted to this agency for review. Should human remains be encountered, further consultation with the agency should occur prior to any project related land clearing or ground disturbing activities in order to provide further recommendations.

**MINUTES FOR  
THE SEMINOLE COUNTY LAND PLANNING AGENCY  
PLANNING AND ZONING COMMISSION  
JULY 11, 2007**

**Members present:** Matthew Brown, Dudley Bates, Ben Tucker, Melanie Chase, Walt Eismann, Kim Day, and Rob Wolf.

**Also present:** Tina Williamson, Acting Planning Manager; Dori DeBord, Director of Planning and Development; Herman Wright, Principal Coordinator; Austin Watkins, Planner; Amy Stevenson, Planner; Kathleen Furey Tran, Assistant County Attorney; Brian Potts, Development Review Manager; and Candace Lindlaw-Hudson, Clerk to the Commission.

**Bright Horizons Day Care Small Scale Land Use Amendment and Rezone;**  
**Bright Horizons Family Solutions / Robert Rossi, applicant;** 1.58± acres; Small Scale Land Use Amendment (SSLUA) from SE (Suburban Estates) and PUB (Public) to OFF (Office) and Rezone from A-1 (Agriculture) to Planned Unit Development (PUD); located on the southeast corner of Banana Lake Road and CR 46A. (Z2007-33 / 08-07SS.01)

Commissioner Carey – District 5  
Austin Watkins, Planner

Austin Watkins introduced the application stating that this is an infill parcel between three large PUDs. The applicant is proposing a daycare center for approximately 150 children in a 24,570 square foot facility. According to the Seminole County Comprehensive Plan, the requested land use is an appropriate transitional use.

The property contains the historic Paola Cemetery that was part of the Presbyterian Church that burned down in the late 1800s.

Conditions of the development order include: The project shall have a maximum allowable building square footage of 24,570 square feet; Daycare and professional offices shall be the only permitted uses.

All activities shall occur in accordance with Florida Statutes for the removal or relocation of human remains or associated items. The applicant must complete a cultural resource assessment survey and ground-penetrating radar to determine if human remains are present within this property consistent with the Florida Department of State, Division of Historical Resources.

A. The existing Paola Cemetery shall not be reduced in size.

- B. Pedestrian ingress-egress shall be provided from Banana Lake Road to the Paola Cemetery with a mulch path or sidewalk located within the buffer and a sidewalk or mulch path shall be provided connecting the parking area to the sidewalk or mulch path to the Paola Cemetery.

The applicant shall provide one parking space for every full-time employee and at least one parking space for every 20 children. Lighting shall not exceed 16 feet in height and shall be in the shoe-box cut-off style with no more than 0.25 footcandles of spillage on adjacent properties.

The setbacks shall be as follows:

North: 25'

South: 25'

East: 10'

West: 10'

The buffers shall be as follows: North: 10 foot landscaped buffer with 4 canopy trees every 100 feet; South: 10 foot landscaped buffer with 8 canopy trees per 100 feet and a 6 foot masonry wall to the west edge of the Paola Cemetery then a 5 foot landscaped buffer with 4 canopy trees every 100 feet for the duration of Paola Cemetery and then a 10 foot landscaped buffer east of Paola Cemetery with 4 canopy trees every 100 feet. To the East: 10 foot landscaped buffer with 4 canopy trees every 100 feet. On the West: 10 foot landscaped buffer with 4 canopy trees every 100 feet.

Parking areas shall comply with the Lake Mary Boulevard Gateway Corridor Overlay District standards.

Mr. Watkins said that staff recommends approval of a Small Scale Land Use Amendment from PUB (Public) and SE (Suburban Estates) to OFF (Office) and a Rezone from A-1 (Agriculture) to PUD (Planned Unit Development), for 1.61 ± acres located at the southeast corner of the intersection of Banana Lake Road and CR 46A, and recommend approval of the attached Preliminary Master Plan and Development Order, based on staff findings

Jay Saxena represented Bright Horizons. He said that he is proposing a child learning and development center.

Teresa Illich made a short presentation on the role of Bright Horizons. She stated that 166 children are projected for this site, ranging in age from 12 months to Pre-K. The center will use 12,000 square feet of the proposed facility. She said that Lake Mary has a gap of 3,000 child care spaces. There are currently 1922 homes under development and over 300 being built in Lake Mary.

Jay Saxena stated that he has approached the state with thermal imaging as to what was found on the site. His consultant, Pan American Archeological Consultants, is working with the State Division of Historical Resources.

Herbert Zischkau spoke on behalf of the Banana Lake owners. He put a diagram of the graveyard on the overhead projector. The diagram indicated the location of burial markers as of June 29, 1998. He stated that there were above ground vaults and vertical burial markers within the center of the property. Mr. Zischkau said that timing was important. Zoning should wait until the property is no longer a cemetery. Part of the due diligence is ground truthing. The reports on the ground truthing do not mention the weathered human bones laying on the ground near the broken tombstones. Anyone doing the ground surveys should have mentioned the bones. The developer has not identified the location of the human remains. Mr. Zischkau urged that the identification of the human remains be done prior to the rezoning, not after. He stated that the present owner, Ms. Frolich, has permitted desecration of the graves during her ownership. During the period of 1998 to 2000, her husband desecrated the gravesite with a backhoe. Bright Horizons design shows buildings 1, 2, 5, and 3 as well as the dry retention area, are to be located where many of the grave markers previously observed by neighbors were located. He showed a comparison of the current proposed site plan covering the areas of the old site survey that he made in 1998. County staff has expressed concern that many of the graves may be located within the proposed dry retention area. The current site plan reflects a fake burial location. It is an arrangement of tombstones moved from the grave sites to a small area in the southeast corner and fenced in. These tombstones had previously been located on the graves in the center of the graveyard. By granting the rezoning tonight, Seminole County is giving up the power to protect the graves until they can be respectfully and accurately relocated. Seminole County has the statutory power to protect the graves. By denying the request without prejudice the board will assure that the Seminole County Planning Staff will be able be sure that the graves are identified and relocated properly. Also, Mr. Zischkau stated that the traffic study of the area was inadequate. There should be a traffic light at the intersection. The current blinker is not adequate for the task. The developer should put in the light and turning lanes for the traffic.

Cindy Crane said that she has watched the cemetery deteriorate. Ownership was unclear at times. Part of the cemetery was taken for the development of CR 46A. Prior to the road project, Ms. Crane said that she had seen 2 large above ground vaults located in the middle of the property. These graves disappeared. To remove them would have been a difficult task. Also, thermal imaging will not show old remains, in the ground for 100 years. There are statutes which spell out the steps that must be taken for site analysis and location of the graves. Such an undertaking is approximately \$21,000. Cost for removal and reburial is \$140,000. Time required to complete all of the mandated activities could be up to three years. She read a letter from her daughter which described the graveyard's condition and layout many years ago. It had a circular feature in the



middle with a statue or fountain, with paths radiating out from the center like a wagon wheel, with graves arranged along the radiating paths. There were several headstones, probably 15 in all. She opposed the project and requested denial of the application.

Janice Springfield has lived in the neighborhood since 1964. She stated that the tombstones were moved over to the southeast corner almost overnight. The graves are still in their original location, even though someone has moved the markers to the current location.

Paul Andrews stated that he lives 300 feet from the cemetery and he is a certified forensic specialist. He stated that the site was bulldozed. The markers were moved to the site they are in now to appease the local people. Mr. Frolich wanted to sell the property. He read from the Land Development Code parts of the Planned Unit Development regulations. He stated that there is no commercial use in the area. There are lots of other sites already zoned for this use.

Michael Dale read a letter from Florida author and historian Charlie Carlson who has family buried in the cemetery. Mr. Carlson was unable to attend tonight's meeting and sent a letter by e-mail to be read at the meeting. Mr. Carlson said that the cemetery began as the Wiser Family Cemetery and was later called the Paola Churchyard Cemetery. In more recent times it has been called the Banana Lake Cemetery. Mr. Carlson has written about the cemetery in several of his books. Mr. Carlson said that he has discussed the false graveyard on this site on his radio show. He noted the moving of the markers to create the false cemetery. Only about half the graves had stone or metal markers. The rest had unreadable wooden markers or were simple depressions in the ground. Mr. Carlson noted in his letter that he maternal great - great grandparents, Ebenizer and Rebecca Metz are buried there. Their graves were marked with a single headstone and were located near the center of the cemetery. Mr. Carlson stated that he suspects that the marker was deliberately removed. Their son, Elias Metz, is also buried there. His great - grandmother Maraquita Victoria Metz and her husband William Charles Hawkins also rest there in well-marked graves. These relatives are shown on census records as residing in Paola prior to 1900. Mr. Carlson wanted it on record that he has personal knowledge of his ancestors being buried in the cemetery.

Janis Ferrell said that she works in the title research. She quoted from Florida Statutes which required provision of ingress and egress to the grave for visitation and read provision for maintenance of the cemetery by the owner, or if abandoned, the descendants of those buried there may provide maintenance. Ms. Ferrell said that with such title encumbrances, an owner would never be able to get insurance on the property. She also said that there was a fake cemetery there. The remains were never moved when the stone were moved. Back in 1999 Mr. Frolich hired a firm to do a thermal imaging on the site. Only 3 graves

were found by the thermal imaging. Ms. Ferrell talked to a thermal specialist. He stated that graves that old (over 100 years) would not give off any heat and would not show up on such a study. Ms. Ferrell said that the markers were moved. She observed earth moving equipment in the graveyard. No remains were moved. She has had estimates of up to 80 people buried there. She said that she has lived in the area of 30 years. Commercial zoning in the area will spoil the area.

Mark Herrmann of 834 Banana Lake Road read a list of 19 names of people buried in the Paola Cemetery that can be validated: Edna Gray Buchanan, William B. Buchanan, Corinne Doggart, Caroline Durigo, R. Sullen, Mary Ann Johnson, Charles W. Johnson, Frederick Randolph Moonson, Myra B. Boonson, (first name unknown) Moonson, Sarah Robertson, George Seltzer, Marie Seymour, Loman Tenny, Matilda M. Patton, Finjin, George Scott, Ebenezer Metz, and Rebecca Metz. He said that the dead should be honored.

Elissa Mackintosh was opposed to the request.

Blaine Darrah said that he hopes the applicant has heard enough tonight to withdraw the application. Practically, he noted the requested 21,000 square feet of buildings and that the applicant is going to use 12,000 square feet for the learning center. Mr. Darrah also pointed to the 166 students that would go there and the traffic generated by drop off and pick up of each student. The application cited 105 trips. He cited the setback and buffer situation with adjacent developments. This application will have no wall, with a 10-foot buffer. The parking lot will be apparent from the road. It should at least have a 6-foot brick wall around the parking lot, as was done in the other developments, with canopy trees and a sidewalk. He requests that the developer withdraw the application and that the graveyard be left in peace.

Jay Saxena stated that no one has addressed how to restore dignity to the site. The only way to do that is to do ground penetrating radar and then work with the state to restore dignity. If relocating the graves to the site indicated on the plan would be an answer, he will do it. The remains will continue to be disrespected without development. Traffic concerns will be addressed at the time of development. The design process will follow the development order which requires certain things be done with the graves. Mr. Saxena said that he has begun to work with the state of Florida by submitting the thermal imaging report to the state. Florida said to do ground proofing, which has been done. The next step, according to the State, is ground proofing and records research. He is not familiar with what happened in 1999 with the 1999 7-11 application. He has submitted a concept plan. His proposal is a service to the community.

Commissioner Bates asked if there was enough room on the site to serve the relocation of up to 60 graves, or would there be room for only a few, perhaps 10 or 12.

Mr. Saxena said Bright Horizons does not own the property. The room would be provided in the final design plan.

Commissioner Tucker asked what has to be relocated.

James Ambersino of Pan American Consultants, Inc. is a senior archeologist. He will move bones, coffins, and other remains in consultation with the state archeologist. Unidentified graves may be moved as a group and remains interred in a mass grave.

Commissioner Tucker asked how large a piece of land would be needed for 80 graves to be moved.

Mr. Ambersino did not know the answer to that.

Commissioner Brown asked Austin Watkins about the current dimensions of the cemetery as depicted on the site plan submitted.

Mr. Watkins stated that the current fenced-in cemetery, whether fake or not, was approximately 7 feet long by 5 feet wide, with the fence.

Commissioner Tucker asked if the church that burned down was within the 1.5-acre site.

Mr. Watkins said it was there, but no remains are apparent today.

Commissioner Brown commented on the fact that some older cemeteries have been adopted by groups and restored.

Commissioner Tucker asked what uses can be done under the current zoning.

Mr. Watkins said that currently, agricultural and single family residential use is allowed, as well as special exception uses. A daycare is allowed on the property with a special exception, but a small scale land use amendment would be required because of the public land use on the property now.

Tina Williamson said that the public future land use applies to the southern end of the property. A single-family house could be put on the portion that does not have the PUB (Public Lands) future land use. One would need a minimum of one acre of net-buildable land.

Commissioner Tucker asked if one acre could be used without the relocation process.

Ms. Williamson said that the survey would have to be conducted first, in all cases.

Commissioner Tucker said that there seems to be no allowable use as the property is today except a cemetery. He asked Ms. Furey-Tran if this is equivalent to a taking?

Ms. Furey-Tran said that she would not call it a taking since it has a use right now and that the owner knew the use when the property was purchased.

Commissioner Brown said that one may look at this as an opportunity to restore dignity to the grave site.

Commissioner Day said that 1.6 acres does not provide enough space to develop a 12,000 square foot building and to move the graves onto reallocated ground. They will have to purchase off-site property to move the graves. They are a profit-making company and that would not pay.

Commissioner Wolf said that the applicant could do the study with ground penetrating radar and find out that there are too many issues there and just abandon it at that point.

Commissioner Brown asked rhetorically who would want to spend \$20,000. to investigate a piece of property that they don't own.

Commissioner Bates said that this, if approved, would provide an opportunity to study the gravesites. If there are a lot of graves, there will not be enough room to relocate and therefore the project would not be pursued. Everything would have to be according to the law and be monitored.

Commissioner Wolf agreed that it would take care of an inventory of the graves to act as a baseline. Would we then leave the land alone as it is?

Commissioner Eismann said that he was torn on this issue. It is a matter of trust. The residents have been lied to in the past. Is this going to be above board?

Commissioner Tucker said that this current applicant is not a fault for the past. What are the developable alternatives? It is not the role of the county residents to take over the care of the graveyard.

Commissioner Wolf asked if the County would be given a copy of the finalized survey of the property once the study is finished.

Mr. Watkins said that the copy would be given to the County at the time of Final Master Plan approval.

Commissioner Brown said that is far down the road. He asked the applicant if anything further would be done about the ground penetrating radar study between now and the time of the BCC hearing.

Jay Saxena said that he is seeking proposals from the consultant to get cost estimates for ground penetrating radar and records research. He will do it as fast as possible.

Commissioner Eismann asked if a state representative is present at the time of the ground penetrating radar test.

Mr. Ambersino said that there would not be a representative of the state; it could be requested.

Commissioner Wolf asked how accuracy could be assured. It is more than a matter of trust.

Mr. Ambersino said that would be an ethics violation for him as a professional archeologist.

Commissioner Brown asked if the 19 certified graves were moved and properly treated, would the neighbors find that acceptable?

Ms. Williamson said that in this instance the site uses are limited to daycare and professional office use only.

The neighbors complained about the traffic.

Commissioner Wolf asked if the study could be submitted to the County upon completion.

Mr. Watkins said that he could make that a condition of the development order.

**Commissioner Tucker made a motion to recommend approval as per staff recommendations.**

**Commissioner Bates seconded the motion.**

**Commissioner Day asked if the office use could be removed from the permitted uses list.**

**Commissioners Tucker and Bates accepted the limited use to be only a daycare.**

**Commissioner Wolf wanted the submission of the completed ground survey to Seminole County to be part of the Development Order.**

**Commissioners Tucker and Bates accepted that as a condition of the approval also.**

**The vote was 7 – 0 to pass the motion and its amendments.**

## Watkins, Austin

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**From:** DeBord, Dori  
**Sent:** Monday, July 16, 2007 2:37 PM  
**To:** Watkins, Austin  
**Cc:** Williamson, Tina  
**Subject:** FW: Lake Mary Cemetery

FYI for the file.

Dori DeBord, AICP  
Planning & Development Director  
Office: (407) 665-7397  
E-mail: [ddebord@seminolecountyfl.gov](mailto:ddebord@seminolecountyfl.gov)

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**From:** Endicott, Helen  
**Sent:** Monday, July 16, 2007 12:44 PM  
**To:** DeBord, Dori  
**Subject:** FW: Lake Mary Cemetery

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**From:** Heather [<mailto:holson@cfl.rr.com>]  
**Sent:** Saturday, July 14, 2007 4:28 PM  
**To:** Endicott, Helen  
**Subject:** Lake Mary Cemetery

Hello,

My name is Heather Olson. I'm a resident of Casselberry, FL. I recently saw a news story that left me really disturbed. It involved a cemetery being torn down and "moved" to make way for a daycare. I am completely repulsed that anyone would want to do that. I am the secretary of a non-profit organization called the International Association of Cemetery Preservationists, Inc. We adopt cemeteries that time and people have forgotten. We have 5 cemeteries we take care of in the Central Florida area and are always looking to help more. There is absolutely no reason for this company to build on this land. There are plenty of vacant buildings in the Central Florida area for their daycare (one of the thousands). The people buried in that cemetery are a part of the history of Seminole County. They deserve respect and I don't think they are getting it. If there is anything you can do to help this situation, please do so. If not, let me know what my company can do or forward my message on to someone who will help.

Thank-You for all of your help,  
Heather Olson  
Secretary, IACP, Inc.  
[holson@cfl.rr.com](mailto:holson@cfl.rr.com)

9/14/2007